

CHAPTER NO. 576

SENATE BILL NO. 593

By Ford, Springer, Dixon, Harper, Ramsey

Substituted for: House Bill No. 565

By Bowers, John DeBerry, Lois DeBerry, Buck, Langster, Pruitt

AN ACT To amend Tennessee Code Annotated, Title 63 and Section 4-29-221, relative to midwives.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 63, is amended by adding Sections 2 through 17 as a new chapter to be appropriately designated.

SECTION 2. The General Assembly recognizes the need for a person to have the freedom to choose the manner, cost, and setting for giving birth. The General Assembly finds that access to prenatal care and delivery services is limited by the inadequate number of providers of such services and that the practice of midwifery may help to reduce this shortage. The General Assembly also recognizes the need for the safe and effective delivery of newborn babies and the health, safety, and welfare of their mothers in the delivery process. The General Assembly, in interest of public health, promotes the regulation of the practice of midwifery in this state for the purpose of protecting the health and welfare of women and infants. The General Assembly recognizes that midwifery is a profession in its own right and that it is not the practice of medicine.

SECTION 3. As used in this act, unless the context requires otherwise:

- (1) "Antepartal" means occurring during pregnancy.
- (2) "Board" means the Board of Osteopathic Examiners to the Department of Health to whom the council of Certified Professional Midwifery reports.
- (3) "Consultation" means exchange of information and advice regarding the client condition and indicated treatment with a physician.
- (4) "Council" means the council of certified professional midwifery.
- (5) "Certified Professional Midwife (CPM)" means a person who has obtained national certification from the North American Registry of Midwives.
- (6) "Department" means the Department of Health.
- (7) "Intrapartal" means occurring during the process of giving birth.
- (8) "CPM-TN" means certified professional midwife in Tennessee. A "CPM-TN" must be certified to practice midwifery by the North American Registry of Midwives.

(9) "Midwife" means a person who is trained to give the necessary care and advice to women during pregnancy, labor, and the post-birth period, to conduct normal deliveries on his or her own responsibility and to care for the newly born infant. The midwife is able to recognize the warning signs of abnormal conditions requiring referral to and/or collaboration with a physician.

(10) "Midwifery" means the practice of attending low-risk women during pregnancy, labor and the post-birth period with the informed consent of the mother. The scope of midwifery shall include comprehensive care of the pregnant woman during the antepartal phase, intrapartal phase, and postpartal phase, and application of emergency care when necessary.

(11) "NARM" means the North American Registry of Midwives.

(12) "Physician" means a person who is duly licensed in the State of Tennessee to practice medicine by the State Board of Medical Examiners or to practice osteopathy by the State Board of Osteopathic Examiners.

(13) "Postpartal" means occurring subsequent to birth.

#### SECTION 4.

(a) There is hereby established a council of certified professional midwifery, which shall serve as a subcommittee of and report to the Board of Osteopathic Examination.

The council members shall be appointed by the Commissioner of Health. The council shall consist of nine (9) members.

(b) Members shall be residents of Tennessee.

(c) Members shall consist of four (4) certified professional midwives, one (1) consumer, one (1) certified nurse midwife, one (1) obstetrician, one (1) family physician and one (1) pediatrician. At least one (1) of the obstetrician, pediatrician or family physician members shall be a doctor of osteopathy.

(d) Members of the council shall serve without pay. Members shall be entitled to reimbursement for per diem and travel expenses.

SECTION 5. The terms of office of the members of the council shall be staggered four (4) year terms. In making the initial appointments, the commissioner shall appoint four (4) members to four (4) year terms, three (3) members to three (3) years and two (2) members to two (2) year terms. All subsequent terms shall be for a period of four (4) years. No member shall be appointed for more than two (2) consecutive terms.

SECTION 6. When a council member is absent from three (3) consecutive meetings without excuse, that member shall be removed from office and a new member shall be appointed by the Commissioner of Health. An absence shall be deemed excused if caused by a health problem or condition verified in writing by a physician, or by an accident or similar unforeseeable tragedy or event prior to or at the time of the next council meeting.

## SECTION 7.

- (1) The council members shall elect annually from their membership a chairperson and vice chairperson.
- (2) A quorum shall consist of two-thirds (2/3) of the members.
- (3) No final action shall be taken on any matter without a quorum and majority vote of the members present.
- (4) The council shall meet at least every six (6) months.
- (5) Emergency meetings may be called by the chairperson with written notice to all members.
- (6) Public notice shall be given for all meetings.
- (7) All meetings are open to the public.
- (8) All records are available to the public. Persons wishing to obtain copies of such records may request the same in writing from the council.

## SECTION 8.

The council shall:

- (1) Assist and advise the board and the department in developing rules with guidance from the Midwives Alliance of North America's Core Competencies and not inconsistent with the law. The rules shall include but not be limited to, the allowable scope of midwifery practice regarding use of equipment, procedures, and administration of medication as prescribed by a physician.
- (2) Make recommendations to the board and the department regarding:
  - (A) Certified professional midwifery;
  - (B) Applications and renewals;
  - (C) Development of forms for reporting and receiving certified professional midwifery forms as set forth herein;
  - (D) Up-to-date files on all active CPM-TN in Tennessee including emergency plan guidelines;
  - (E) Compilation of annual statistics on CPM-TN deliveries.
- (3) Educate the public and other providers of obstetrical care about the role of the CPM-TN.

## SECTION 9.

(a) A midwife who has met the standards set forth herein may apply to the board for Tennessee certification. An application for Tennessee certification shall provide information as required herein and as may be required by the board. Except for the American College of Nurse Midwives certified midwives and certified nurse midwives, a certificate under this act is required to practice midwifery for monetary compensation in which service has been offered for a fee. A certificate under this act is not required for certified nurse midwives who maintain their licensure as registered nurses pursuant to Tennessee Code Annotated, Title 63, Chapter 7.

(b) In order to receive certification as a certified professional midwife (CPM-TN), an applicant shall:

(1) Obtain certification from NARM and currently hold the title of certified professional midwife (CPM).

(2) Read, understand, and agree to practice under the guidelines set forth herein this act and any rules promulgated pursuant to this act; and

(3) Have proof of current CPR certification including infant or neonatal resuscitation.

#### SECTION 10.

(1) A midwife who is certified under this standard may use the initials "CPM-TN".

(2) An initial certificate is available for a three (3) year period.

(3) The certificate is renewable every two (2) years after the initial three (3) year period.

(4) Renewal is available to the certified professional midwife (CPM) who maintains current certification from NARM by complying with the continuing education requirement applicable to the certified professional midwife (CPM).

(5) Renewal is available to the certified professional midwife (CPM-TN) whose certification from NARM remains in good standing and who has current CPR certification.

(6) The board may deny an application for certification only if the applicant is not in compliance with the standards herein.

(7) A CPM-TN may receive third party payment from private agencies that provide coverage for maternity and obstetrical care. No managed care organization or insurance company shall require a patient to be served by a CPM-TN instead of a medical doctor or a nurse practitioner.

SECTION 11. Any certified professional midwife who is not practicing midwifery in Tennessee may be placed in inactive status by requesting such status in writing and submitting it to the council. Active status may be renewable by requesting a change of status from inactive to active in writing to the council and by fulfilling the requirements for renewal set forth herein.

SECTION 12. Any certified professional midwife who does not seek inactive status and allows the certificate to expire after a sixty (60) day grace period must apply for a new certificate as prescribed herein.

SECTION 13.

(1) The application fee is to be set by the Commissioner of Health and shall not be less than that sum necessary to permit the council to recover its costs of operation.

(2) The renewal fee is to be set by the Commissioner of Health and shall not be less than that sum necessary to permit the council to recover its costs of operation.

SECTION 14. The certificate shall be displayed at all times in a conspicuous place where the CPM-TN is practicing, when applicable.

SECTION 15.

(a)(1) A CPM-TN may have his or her license revoked or suspended for any of the grounds set forth in subdivision (2), or for failing to follow the standards set forth herein. Such action may occur only after investigations by the Department of Health. Any action on the certification shall be made by the Council, subject to approval by the board.

(2) The board has the power to deny, revoke or suspend any certificate or to otherwise discipline a certificate holder upon proof that the person:

(A) Is guilty of fraud or deceit in procuring or attempting to procure a certificate to practice midwifery;

(B) Is guilty of a crime;

(C) Is unfit or incompetent by reason of negligence, habits or other cause;

(D) Is addicted to alcohol or drugs to the degree of interfering with midwifery duties;

(E) Is mentally incompetent;

(F) Is guilty of unprofessional conduct; or

(G) Has violated or attempted to violate, directly or indirectly, or assisted in or abetted the violation of, or conspired to violate, any provision of this chapter or any lawful order of the board issued pursuant thereto.

(b) If the council decides to consider discipline of a certificate holder, the same organization shall notify the certified professional midwife in writing of the reasons for

such consideration. The notice shall set forth the time, place, and date of the meeting at which the council shall take action. Such meeting shall not be set less than thirty (30) days from the mailing of the notice.

(c) Should the certified professional midwife desire a hearing by the council, he or she shall notify the chairperson of the council in writing within fifteen (15) days after receipt of notice. The council shall then set a hearing no less than fifteen (15) days and no more than forty-five (45) days and notify the certified professional midwife in writing of findings and grounds for the decision. Said decision shall take effect immediately upon being reduced to writing and signed by the chairperson of the council.

(d) All notification required by this section shall be in writing and shall be sent by certified, return receipt requested mail or by personal delivery.

(e) The following procedure shall govern the conduct of appeals hearings before the council:

(1) The appellant shall have the right, but not be required to be represented by counsel.

(2) The council shall arrange for a notary public or other officer empowered to administer oaths to be in attendance at every hearing, and all evidence offered shall be under oath.

(3) All proceedings of all hearings before the council shall be recorded.

#### SECTION 16.

(1) The CPM-TN may provide care for the low-risk client who is expected to have a normal pregnancy, labor, birth and postpartal phase in the setting of her choice. The CPM-TN shall form a collaborative care plan with a physician for all clients.

(2) The CPM-TN shall ensure that the client has signed an informed consent form. This form shall include information to inform the client of the qualifications of the CPM-TN.

(3) The CPM-TN may order routine antepartal laboratory analysis to be performed by a licensed laboratory.

(4) The CPM-TN shall develop an emergency plan that shall be signed by the client and placed in the client chart at the initial visit. The emergency plan shall include documentation of the initial consultation with the physician previously referenced in Section 16(1) as stated above. The documentation shall also include referral and transfer plans for the patient in the event of an emergency. A copy of the plan shall be sent to the named physicians.

(5) The CPM-TN shall determine the progress of labor and, when birth is imminent, shall be available until delivery is accomplished.

(6) The CPM-TN shall remain with the postpartal mother during the postpartal period until the conditions of the mother and newborn are stabilized.

(7) The CPM-TN shall instruct the parents regarding the requirements of Section 68-5-202.

(8) The CPM-TN shall instruct the parents regarding the requirement of Section 68-5-401.

(9) The CPM-TN shall maintain a birth certificate for each birth in accordance with the requirements of Title 68. A copy of the birth certificate shall be filed with the Department of Health.

(10) The CPM-TN shall practice in compliance with the rules and regulations promulgated pursuant to this act.

SECTION 17. The board and department, with assistance and advice from the council, are authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.


SECTION 18. Tennessee Code Annotated, Section 4-29-222(a), is amended by adding the following as a new item to be appropriately designated:

(\_) council of certified professional midwifery, created by Section 4 of this act.

SECTION 19. This act shall take effect July 1, 2000, the public welfare requiring it.

PASSED: February 24, 2000

  
JOHN S. WILDER  
SPEAKER OF THE SENATE

  
JIMMY NAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this            day of            2000

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DON SUNDQUIST, GOVERNOR

Pursuant to Article III, Section 18, of the Constitution of the State of Tennessee, the Governor had Senate Bill No. 593 in his possession longer than ten (10) days, so therefore the bill becomes law without the Governor's signature.